coordination, send that information out, they were directed. And it was a routine basis, I wouldn't repeat to them everyday, but it was established that as soon as I was satisfied with the technical part of it, they would send information to Pepper & Corazzini. And my understanding with Pepper & Corazzini and the procedure--my instruction to them was to go ahead and prepare for the application.

Incidentally, when we went to that, something I forgot is to expedite the matter further, they would have sent me stack of last page of the application and I would sign that, and I would send it to them because I didn't want to go through—the position was don't go through them getting the information from Comsearch, preparing their application, sending it to me. I reviewed it or I sign it, send it back to them.

The important thing on the application is that when we all saw that is the transmitter locations are pretty much offset. For example, if it's Normandie Court which is licensed, that transmitter data is always the same. The building

height doesn't change. The ground elevation doesn't change. Most of the information on the application of the existing transmitter is you do your add-on of new receiver.

So you basically supplement your coordination, so therefore I didn't see was needed to review application every time because all the application are duplicate. The only thing is what it supplemented to it, which was the coordination of the Comsearch--I always reviewed before they sent it out.

of that application. I done as much as 30 or 35 every time because it wasn't only for the new building, if it was any building that we needed to--minor changes and everything which required another application be filed for FCC, they would have that, and the understanding was as soon as Comsearch satisfied me that data is okay, he would fax or send it quickly to Pepper & Corazzini, and then they proceed with the filing, and they had my signature. All they had to do was date it out and

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And I would at some point call them. I would let them know that this building is coming to them, and make sure the Comsearch is understood that he's got to send all the data sheet to them.

And at that point I would proceed with building the system.

- Q. I'm just going to briefly show you what was previously marked as Lehmkuhl Exhibit 1 and have you thumb through it briefly and see if you could identify this as being an application for a microwave receiver site for me.
- (Document handed to the witness, and witness reviews document.)
- MR. BEGLEITER: Just tell the witness it begins at 0001 and ends 0031. Is that all right?
  - MR. WEBER: Yes.
  - MR. BEGLEITER: That's Lehmkuhl 1. And he wants to know whether or not you recognize that as an application.
- THE WITNESS: Yes, that's correct.
- BY MR. WEBER:

Q. Then the next question may be irrelevant.

On page 483, the October 5th, 1995 report, you

notice in the far right column there is no category

for license. Do you know why?

- A. Yeah, because this installation progress report, as it says, was mainly technical information. It wasn't the legal part of it. It was basically technical to see where we are standing, where are the projects, and that was it.
- Q. Is licensing part of the procedure of where you are at in installing a building?
- A. At the moment it is, at right now, since 19 April 1995, May '95.
- Q. I'm not quite sure I understand your answer, then. Was it not an issue prior to April of '95?
- A. Prior to April '95, it was the procedure that Pepper & Corazzini, through the coordination process, it would go to them, and the legal part of it, they would take care of that.

But after April or May of '95, which we found out some of these buildings were not the

- Q. Was time the major factor, then, in deciding to apply for an STA?
  - A. But again, that part of it--I assume it's yes, but I wouldn't decide on that. But the procedure was in such a way that we knew that we are not going to be, again the licenses, for the reason I stated before, that we need to have a customer up, and they're going to be a certain time.

And going with the Comsearch process and the application to the FCC, and the contracts that we had, the building has to be going up. The business has to go up. So that was the way to go. Legally it was decided. I didn't decide it.

- Q. Did somebody at Liberty instruct Pepper & Corazzini to apply for STAs?
  - A. If they did, I'm not aware of that.
- Q. Did there come a time where you learned that Liberty had been operating certain facilities without FCC authorization?
  - A. Yes.

Q. And at what point did you learn this?

- 1 A. About April 20, end of April '95.
  - Q. How did you come to learn about this knowledge?
  - A. If I remember, some of the information came from Time Warner of some of these buildings without authorization.
  - Q. Was it somebody at Liberty that told you that they had heard it from Time Warner, or did you have direct contact with Time Warner?
  - A. No. I just got--from what I recall, I got something was sent, the list of the buildings and they say they were. That's why I found out.
  - Q. I guess what I'm asking more specifically is--I will try to be clear--did Time Warner send this information directly to you?
- 16 A. No.

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- Q. Did somebody at Liberty convey to you that Time Warner had brought up this information?
- A. I don't exactly remember who and how, but document came up to my office internally.
  - Q. And what did you do at that time?
- A. I'm sorry?

1 | into operation prior to the application being
2 | filed; correct?

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- A. The dates are different. One is February, one is January.
- Q. I had asked you earlier if you were ever aware of an instance where the system was in operation without even an application being on file, and you told me not that you know.

Now I have shown you an instance, and I was trying to confirm that this is the first time you learned that, sitting here today. The first time you have been made aware of the fact.

MR. SPITZER: Could we go back to that earlier question? Was it clear to the witness what time frame you were referring to in terms of his state of mind?

MR. WEBER: We will make it clear.

BY MR. WEBER:

- Q. Sitting here today, are you aware of any instance where facilities went into operation and there was not even an application on file?
- 22 A. At the time, no.

Q. By "at the time, no," you mean at the time that it was turned on?

A. No, no, no. What I'm saying is that--let me think one more time because I want to answer that clear.

At no instances did I turn any system on without realizing that I was not authorized to turn the system on.

Q. Okay. I understand that. I'm not talking about at the time you turned it on. I'm talking about what you know as of today.

Do you know today that there were instances where a facility became operational without the application being on file? Do you understand my question now? I'm not talking about what your knowledge was at the time the facility became operational. What you learned later on.

A. Well, later on means right now after during last year when we got everything together, I knew that those--the number of buildings, ten, 15, whatever it was in this list, I just see that based on appendix--

EXHIBIT 3

#### PEPPER & CORAZZINI

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#### **MEMORANDUM**

TO:

VINCENT A PEPPER

PETER GUTMANN

JOHN F. GARZIGLIA

NEAL J. FRIEDMAN

ELLEN S. MANDELL

LOUISE CYBULSKI

L. CHARLES KELLER = MICHAEL J. LEHNKUHL = SUZANNE C. SPINK = NOT ADMITTED IN D.C.

HOWARD J. BARR

ROBERT F. CORAZZINI

Peter O. Price, Esq. Behrooz Nourain

Thomas Courtney, Comsearch 1808 Correspondence File

FROM:

Michael J. Lehmkuhl, Esq.

RE:

Inventory of 18 GHz Licenses Issued to Liberty Cable Co., Inc.

DATE:

February 24, 1995

Attached is the latest inventory of 18 GHz stations currently licensed to Liberty Cable Co., Inc. ("Liberty"). The inventory includes four sections detailing pending applications, granted licenses, transmit location information, and the status and path information for each transmitter site.

The redesign of this inventory reflects the major changes that have occurred at the Commission within the last six months. With the exception of Lincoln Plaza, the Commission has finally consolidated the licenses around the transmit sites so that there is only one license and call sign for every transmit site. The Lincoln Plaza licenses should be consolidated within a few months. Also note that the applications that had been pending for over two years have finally been granted. Consequently, Liberty is no longer operating under any STAs.

The license status of each path is also indicated in the right margin of the general listing by either a "P" (pending) or a "G" (granted). Also, you will note the number on the left margin of the inventory. For purposes of accuracy, this number is the path number assigned by the Commission that appears on each license. Note that since the Lincoln Plaza licenses have not been consolidated, no path number is shown.

Please call me if you have any questions or comments.

bcc:

**RFC** 

HJB

MJL/kaw c:\wp\1808\inventry.cvr

### Liberty Cable Co., Inc. Pending Applications & STAs

Locality	Callsign	File No.	Туре	PN Accept Date	Days Pend.	STA?	Grant Date
155 E. 31st St. (Windsor Court)	WNTT406	708780	MOD	12-9-94	76	No	
1692 Third Ave. (Normandie Court)	WNTM385	708779	AMEND			No	
1692 Third Ave. (Normandie Court)	WNTT378*	708779	MOD	12-9-94	76	No	
20 W. 64th St. (One Lincoln Plaza)	WNTT489	708778	AMEND	12-9-94	76	No	
20 W. 64th St. (One Lincoln Plaza)	WNTT321	<b>7063</b> 01	GRANT			No	11-15-94
20 W. 64th St. (One Lincoln Plaza)	WNTT489	708778	MOD	12-9-94	76	No	
205 E. 64th St. (Bristol Plaza)	WNTM212		AMEND			No	
205 E. 64th St. (Bristol Plaza)	WNTT698*	708781	MOD	12-9-94	76	No	
205 E. 64th St. (Bristol Plaza)	WNTT582*	709426	MOD	1-3-95	51	No	
205 E. 64th St. (Bristol Plaza)	WNTM212		MOD			No	
2600 Netherlands Avenue (Century)	WNTX889	708992	GRANT			No	2-06-95
2600 Netherlands Avenue (Century)	WNTX889	708992	GRANT			No	2-06-95
30 Waterside	NEW		NEW			No	
335 Madison	NEW		NEW			No	
420 E. 54th St. (River Tower)	WNTT370	708777	MOD	12-9-94	76	No	
767 Fifth Avenue	NEW	709332	AMEND			No	
767 Fifth Avenue	NEW	709332	NEW	1-3-95	51	No	
99 Battery	WNTW782		MOD			No	

FCC/CP 016140

<sup>\*</sup> Denotes that this Call Sign may change due to the Commission's recent license consolidation for this facility.

Licensee	Call Sign	File No.	License Type	Location	Expiration Date
Liberty Cable Co., Inc.	<b>WNTM2</b> 12	9211789096	Regular	Bristol Plaza	<b>2-21-</b> 97
Liberty Cable Co., Inc.	<b>WNTM38</b> 5	9409706961	Regular	Normandie Court	<b>8-08-</b> 99
Liberty Cable Co., Inc.	WNT321	9408706301	Regular	One Lincoln Plaza	<b>11-05-</b> 99
Liberty Cable Co., Inc.	<b>WNTM210</b>		Regular	One Lincoln Plaza	7-15-99
Liberty Cable Co., Inc.	<b>WNTL307</b>	9408706300	Regular	Milford Plaza	8-24-98
Liberiy Cable Co., Inc.	WNTM555	9410789093	Regular	Windsor Ct.	9-30-99
Liberty Cable Co., Inc.	<b>WNTP569</b>	9410789094	Regular	River Tower	<b>9-30-</b> 99
Liberty Cable Co., Inc.	<b>WNTW782</b>	9407705373	Regular	99 Battery	12-28-99
Liberty Cable Co., Inc.	<b>WNTU873</b>		Regular	One Lincoln Plaza	4-12-99
Liberty Cable Co., Inc.	<b>WNTT48</b> 9	708778	Regular	One Lincoln Plaza	<b>1-06-</b> 99
Liberty Cable Co., Inc.	<b>WNTT699</b>		Regular	One Lincoln Plaza	1-11-99
Liberty Cable Co., Inc.	<b>WNTT379</b>		Regular	Ore Lincoln Plaza	<b>11-08-</b> 98
Liberty Cable Co., Inc.	WNTU699		Regular	One Lincoln Plaza	6-10-99
Liberty Cable Co., Inc.	WNTX889	708992	Regular	Century	<b>2-06-20</b> 00

## iberty Cable Co., Inc. Transmit Locations

Locality	99 Battery
----------	------------

		Elasadlas	10
Latit		Elevation	325
Longit	ude 074-01-01	Hgt. of Support Struct.	0
		Ft. Antenna Increases Hgt	325.0
Almont & Dieto	nce La Guardia ENE 8.99mi	Hgt. of Str. + Ant. Antenna C/L	31 <b>9</b> .0
Airport & Dista	ice La Guardia EITE 0.991111	Alteine OL	313.0
Locality 30 Wat	terside		
Latito	ude 40-44-16	Elevation	5.0
Longite	ude 73-58-25.5	Hgt. of Support Struct.	425.0
		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	425.0
Airport & Dista	nce LaGuardia NNE 5 Mi.	Antenna C/L	422.0
Locality 155 E.	31st St. (Windsor Court)		
Latitu	ude 40-45-03	Elevation	30.0
Longitu	ıde 73-56-54	Hgt. of Support Struct.	395.0
		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	395.0
Airport & Distar	ice	Antenna C/L	390.0
Locality 335 Ma	dison Avenue		
Latitu	ıde 40-45-13	Elevation	60.0
Longitu	ude 73-58-43	Hgt. of Support Struct.	385.0
_		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	385.0
Airport & Distar	ce LaGuradia NNE 5.0 mi	Antenna C/L	382.0
Locality 420 E.	54th St. (River Tower)		
Latitu	ude 40-45-17	Elevation	30.0
Longitu	ude 73-56-52	Hgt. of Support Struct.	432.0
		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	432.0
Airport & Distar	nce	Antenna C/L	405.0

## 'berty Cable Co., Inc. Transmit Locations

Locality	270 W.	45th St.	(Milford	Plaza)
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	·		20.0
Latitude	40-45-32	Elevation	39.0
Longitude	073-59-19	Hgt. of Support Struct.	320.0
		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	320.0
Airport & Distance	La Guardia ENE 6.2 mi	Antenna C/L	315.0
Locality 767 Fifth A	venue		
Latitude	40-45-48	Elevation	50.0
Longitude	73-58-23	Hgt. of Support Struct.	<b>550</b> .0
•		Ft. Antenna Increases Hgt	0
		Hgt. of Str. + Ant.	<b>550</b> .0
Airport & Distance	LaGuardia, ENE 4.5mi	Antenna C/L	497.0
Locality 205 E. 64th	n St. (Bristol Plaza)		
Latitude	40-45-53	Elevation	60.0
Longitude	073-57-48	Hgt. of Support Struct.	530.0
		Ft. Antenna Increases Hgt	0
		Hgt. of Str. + Ant.	530.0
Airport & Distance	La Gu <b>ardia</b> , NE 4.9 mi	Antenna C/L	518.0
Locality 20 W. 64th	St. (One Lincoln Plaza)		
Latitude	40-46-18	Elevation	<b>80</b> .0
Longitude	73-58-55	Hgt. of Support Struct.	480.0
•		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	480.0
Airport & Distance		Antenna C/L	470.0
Locality 1692 Third	Ave. (Normandie Court)		
Latitude	40-47-03	Elevation	30.0
Longitude	73-56-54	Hgt. of Support Struct.	395.0
-		Ft. Antenna Increases Hgt	0.0
		Hgt. of Str. + Ant.	395.0
		rigt. of ott Am.	000.0

## berty Cable Co., Inc. Transmit Locations

#### Locality 2600 Netherland Avenue (Century)

Latitude	40-52-42	El <b>e</b> v <b>ati</b> on	150.0
Longitude	73-54-56	Hgt. of Support Struct.	400.0
		Ft. Antenna Increases Hgt	0
		Hgt. of Str. + Ant.	400.0
Airport & Distance	Evers Sea Plane, ENE 5.0	Antenna C/L	397.0

#### **WNTW782**

99 Battery 99 Battery , NYC 40-42-26 N 073-01-01W

Expiration 12-28-99

Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
	99.936	61 Broadway	40-42-24	74-00-46	P
02	351.346	200 Rector, NYC	40-42-28.5	074-01-1.5	G
03	150.7	One New York Plaza	40-42-05.0	074-00-45.5	G

**NEW** 40-44-16 N 073-58-25.5W

Expiration

30 Waterside

Site No. Azimuth Path Name Az Lat. Az Long. Status

40-44-15 16 West 16th Street 73-59-41 269.009 Р

#### **WNTM555**

#### **Windsor** Court 155 E. 31st St. 40-45-03 N 073-56-54W

Expiration 9-30-99

Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
	118.272	Resident Hall, NYU Campus	40-44-32	73-58-28	Р
	126.143	Greenburg Hall, NYU Campus	40-44-31	73-58-32	Р
02	163.076	Stuyvesant	40-44-06	73-58-36	G
03	171.712	Peter Cooper	40-43-54	73-58-41	G
04	21.548	Grand Central	40-45-07	73-58-36.5	G
05	261.208	Pierpont	40-44-40	73-58-58.5	G
06	181.147	245 East 25th Street	40-44-22	73-58-50.5	G
07	243.177	407 Park Avenue	40-44-36	73-59-03	G
08	76.785	330 East 38th	40-44-46	73-58-22	G
09	55.444	200 East 36th Street	40-44-46.5	73-58-39.5	G
10	192.261	Biltmore Plaza	40-44-34	73-58-52	G
11	83.380	Horizon (415 East 37th Street)	40-44-44	73-58-16	G
12	356.045	35 Park Avenue	40-44-52	73-58-51	G

NEW

#### 335 Madison Avenue 40-45-13 N 073-58-43W

Expiration

 Site No.
 Azimuth
 Path Name
 Az Lat.
 Az Long.
 Status

 297.744
 6 East 44th Street
 40-45-15
 73-58-48
 P

#### River Tower 420 East 54th Street, NYC 40-45-17 N 073-56-52W

Expiration

9-30-99

Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
	287.194	220 East 52nd Street	40-45-24	73-58-09	Р
02	70.269	25 Sutton Place	40-45-23	73-57-41	G
03	206.885	420 East 51st Street	40-45-14	73-57-56	G
04	273.274	201 East 50th (Random House)	40-45-21	73-58-15	G
05	220.997	U.N. Plaza	40-45-02.5	73-58-12	G
06	270.011	345 East 52nd Street	40-45-20	73-57-59	G
07	270.011	REPEATER 345 East 52nd Street	40-45-20	73-57-59	G
80	24.525	RX 333 East 55th	40-45-27.5	73-57-54.5	G

**WNTL307** 

## Milford Plaza Milford Plaza Hotel, 270 West 40th Street, NYC 40-45-32 N 073-59-19W

Expiration 8-24-98

Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
02	227.9	Newport, NY	40-43-42	74-01-59	G
03	271.3	Riya Pointe, NYC	40-45-34	74-01-14.5	G

#### NEW

#### 767 Fifth Avenue 40-45-48 N 073-58-23W

#### Expiration

Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
	244.257	25 West 54th Street	40-45-42.5	73-58-38	P
	203.488	335 Madison Avenue	40-45-13	73-58-43	N

#### Bristol Plaza 205 East 64th Street, NYC 40-45-53 N 073-57-48W

Expiration	2-21-9	7			
Site No.	Azimuth	Path Name	Az Lat.	Az Lo <b>ng</b> .	Status
	196.387	30 Waterside	40-44-16	73-58-25.5	Р
	33.090	239 East 79th Street	40-46-24.5	73-57-21	P
	354.703	114 East 72nd Street	40-46-13.5	73-57 <b>-50</b> .5	P
	81.683	524 East 72nd Street	40-45-57	73-57-12	P
	166.073	425 East 58th Street	40-45-30	73-57-40.5	P
	249.457	60 Sutton NYC	40-45-18.5	73-59-49	P
	179.178	433 East 56th Street	40-45-26.5	73-57-47.5	P
06	236.674	540 Park Avenue	40-45-42	73-58-10	G
07	213.224	Windsor Court	40-44-41	73-58-50	G
09	11.461	155 East 73rd Street	40-46-15.5	73-57-42	G
10	26.432	177 East 75th Street	40-46-19	73-57-31	G
11	51.206	435 East 77th Street	40-46-15	73-57-12	G
12	4.497	815 Park Avenue	40-46-22	73-57-45	G
13	1.742	785 Park Avenue	40-46-18	73-57-47	G
14	27.401	Mayfair (207 East 74thStreet)	40-46-15	73-57 <b>-33</b>	G
15	296.614	29 East 64th Street	40-46-01	73-58-09	G
16	0.002	140 East 72nd	40-46-12.5	73-57-48	G
17	2.638	1001Fifth	40-46-37	73-57-27	G
18	19.942	140 East 83rd	40-46-37	73-57-27	G
19	83.962	Roosevelt Island	40-45-57.5	73-56-52	G
20	270.005	550 Park Avenue	40-45-53	73-58-11	G
21	336.317	2 East 70th Street	40-46-19	73-58-03	G
22	353.429	35 East 75th Street	40-46-26	73-57-53	G
23	3.184	50 East 79th Street	40-46-34	73-57-45	G
24	37.243	301 East 78th Street	40-46-22	73-57-19	G
25	214.056	200 East 57th Street	40-45-35	73-58-04	G
26	242.254	150 East 61st Street	40-45-47	73-58-03	G
27	1.210	875 Park Avenue	40-46-29	73-57-47	G
28	243.749	175 East 62nd Street	40-45-50	73-57-56	G

# Bristol Plaza - 205 East 64th Street, NYC - 40-45-53 N 073-57-48W

Expiration	2-21-9	7			
Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
29	356.046	Imperial House	40-46-04	73-57-49	G
30	161.500	25 Sutton	40-45-28	73-57-37	G
31	179.996	301 East 62nd	40-45-41.5	73-57-48	G
32	1.428	820 Park Avenue	40-46-23.5	73-57-47	G
33	10.762	169 East 69th Street	40-46-05	73-57-45	G
34	21.207	145 East 84th Street	40-46-41	73-57-23.5	G
35	188.462	350 East 57th Street	40-45-30	73-57-52.5	G
36	206.522	251 East 51st Street	40-45-21	73-58-09	G
37	31.208	229 East 79th Street	<b>4</b> 0-46-25	73-57-22.5	G
38	12.102	911 Park	40-46-32	73-57-37	G
39	20.607	144 East 84th Street	40-46-39.5	73-57-25	G
40	313.729	857 Fifth Street	40-46-09	73-58-10	G
41	6.757	898 Park Avenue	40-46-31.5	73-57-42	G
42	19.108	140 East 81st Street	40-46-32.5	73-57-30	G
43	343.085	927 5th Avenue	40-46-23	73-58-00	G
44	2.353	40 East 78th	40-46-30	73-57-46	G
45	192.851	333 East 57th	40-45-33	73-57-54	G
46	246.331	575 Madison Avenue	40-45-42	73-58-21	G
47	255.005	Delmonica H	40-45-47.5	73-58-15	G
48	347.471	936 5th Avenue	40-46-25.5	73-57-57.5	G
49	349.237	167 East 67th	40-45-59	73-57-49.5	G
50	266.042	555 Park Avenue	40-45-52	73-58-07	G
51	19.211	175 East 74th St	40-46-17	73-57-37	G
52	281.347	812 Fifth Avenue	40-45-57.5	73-58-17.5	G
53	139.455	340 East 64th Street (St. Tropez)	40-45-45	73-57-39	G
54	185.266	River Tower	40-45-20	73-57-52	G
55	172.603	400 East 59th Street	40-45-32.5	73-57-44.5	G
56	307.496	116 East 66th Street	40-46-00	73-58-00	G
57	282.364	160 East 65th Street	40-45-54	73-57-54	G

#### Bristol Plaza 205 East 64th Street, NYC 40-45-53 N 073-57-48W

Expiration	2-21-9				
Site No.	Azimuth	Path Name	Az Lat.	Az Long.	Status
58	348.075	733 Park Avenue	40-46-11	73-57-53	G
<b>59</b> .	249.566	Regent (Four Seasons)	40-45-44.5	73-58-18	G
60	320.523	650 Park Avenue	40-46-05	73-58-01	G
61	13.913	108 E. 82nd Street	40-46-37.5	073-57-33.5	G
62		RX 211 E. 51st Street (293.670)	40-45-22.5	073-58-13.5	G
63	206.522	REPEATER 251 E. 51st Street	40-45-21	073-58-09	G
64	216.607	860 UN Plaza	40-45-10	073-58-30	G
65		RX 142 E. 71st Street (180.002)	40-46-09	073-57-47	G
66	0.002	REPEATER 140 E. 72nd St.	40-46-12.5	073-57-48	G
67		RX 71 E. 77th Street (182.354)	40-46-32	073-57-44	G
68	2.353	REPEATER 40 E. 78th Street	40-46-30	073-57-46	G
69	349.2	201 East 66th Street	40-45-57	73-57-49	G